

**REMARKS/ARGUMENTS**

Claims 1-64 were pending in the application. Claims 9 and 24 stand objected to and claims 1-64 stand rejected. By this amendment, claims 9 and 24 are amended to provide antecedent basis for one or more terms therein and claims 1, 13, 24, 31, 42, 45, 48, and 59 are amended for clarity in light of the examiner's remarks. Support for the amendments may be found in the specification and claims as originally filed. Specifically, support can be found in FIGS. 10 and 11A and paragraph [0053]. No new matter has been added and as a result, claims 1-64 are pending and at issue.

**Claim Objections**

The applicants traverse the objection to claims 9 and 24. By this amendment, claims 9 and 24 are amended to provide antecedent basis for one or more terms therein and/or to correct minor typographical errors therein. The applicants respectfully request withdrawal of the objection to claims 9 and 24.

**35 U.S.C. § 102 Rejections**

The applicants respectfully traverse the rejection of claims 1-64 as anticipated by any of U.S. Patent No. 5,575,073 to Von Wedemayer ("Von Wedemayer"); U.S. Patent No. 5,063,679 to Schwandt ("Schwandt"); U.S. Patent No. 3,909,952 to Lagasse ("Lagasse"); U.S. Patent No. 6,167,630 to Webb ("Webb") and U.S. Patent No. 6,133,996 to Plumb ("Plumb"), collectively the "cited art". Each of claims 1-64 now recites *inter alia*, a connection structure to removably receive and mount either a light generating device or a leveling device thereto, wherein a portion of the connection structure is pivotably movable. The cited art fails to disclose or suggest this limitation.

Specifically, the applicants respectfully traverse the rejection of claims 1, 3, 4, 7, 8, 13, 14, 18, 20, 23-25, 27, 29, 30-36, and 41 as anticipated by Von Wedemayer. While Von Wedemayer discloses a leveling device for a spirit level, Von Wedemayer fails to disclose a portion of a connection structure that is pivotably movable. The leveling device of Von Wedemayer includes an upper plate 1 made of ferromagnetic material wherein the top surface 8 of the upper plate is ground absolutely planar (flat) (col. 3, lines 15-17). Additionally, the top surface 8 serves as a bearing surface for the measuring base 24 of the spirit level 20 (col. 3, lines 17-19). The housing of the spirit level 20 is then fixed to the upper plate 1 by a

magnet 23 integrated into the housing of the spirit level 20. Neither the flat surface nor the magnet 23 is pivotably movable. Thus, Von Wedemayer fails to disclose or suggest a portion of a connection structure that is pivotably movable. Because Von Wedemayer fails to disclose this element, none of claims 1-64 can be anticipated by Von Wedemayer. The applicants respectfully request withdrawal of the rejections of claims 1, 3, 4, 7, 8, 13, 14, 18, 20, 23-25, 27, 29, 30-36, and 41 as anticipated by Wedemayer.

Likewise, the applicants respectfully traverse the rejection of claims 1, 2, 9, 24, and 26 as anticipated by Schwandt because Schwandt fails to disclose a portion of a connection structure that is pivotably movable relative to a first surface. Schwandt discloses a bubble level movably mounted to a base having a mounting portion 32 and a protractor securing portion 30. While the protractor securing portion 30 may be rotatably attached to the mounting portion 32 by a snap connector 50 (col. 4, lines 58-64), the snap connector 50 is not pivotable relative to the protractor securing portion. Thus, Schwandt fails to disclose a portion of a connection structure pivotably movable relative to a first surface and therefore none of claims 1, 2, 9, 24, and 26 can be anticipated by Schwandt. The applicants therefore respectfully request withdrawal of the rejection of claims 1, 2, 9, 24, and 26 as anticipated by Schwandt.

Similarly, the applicants respectfully traverse the rejection of claims 1, and 3-6 as anticipated by Lagasse because Lagasse fails to disclose a portion of a connection structure that is pivotably movable relative to a first surface. While Lagasse discloses a plumb light having a light means 16 connected to a pivotable member 48, the light means is rigidly connected (not removably connected) to the planar portion 78 of the pivotable member (col. 7, lines 41-46). Regardless, the planar portion 78 includes no connection structure, and even if the planar surface 78 itself is considered a connection structure, the planar portion 78 does not have any movable portions, let alone a pivotably movable portion as is recited in each of claims 1, and 3-6. Thus, none of claims 1, and 3-6 can be anticipated by Lagasse. The applicants therefore respectfully request withdrawal of the rejection of claims 1, and 3-6.

Additionally, the applicants respectfully traverse the rejection of claims 13, 21, and 22 as anticipated by Webb. While Webb discloses a laser system including a base with slots, Webb fails to disclose a portion of a connection structure that is pivotably movable relative to a first surface. For example, when the level 12 is inserted into the slots, a clamping means 28

(a screw-type clamp) secures the level 12 in the base 11 (col. 3, lines 32-38). The only portion of the base that could be considered a movable portion of a connection structure (clamping means 28) is not pivotably movable in any way, let alone pivotably movable relative to a first surface. Thus, none of claims 13, 21, and 22 can be anticipated by Webb. Accordingly, the applicants respectfully request withdrawal of the rejection of claims 13, 21, and 22.

Moreover, the applicants respectfully traverse the rejection of claims 59 and 64 as anticipated by Plumb. While Plumb discloses a laser equipped level device in which the laser assembly 50 has a compartment 51 movably mounted on the linear portion 32, neither the laser assembly 50 nor the compartment 51 includes a portion of a connection structure that is pivotably movable. The compartment 51 does not include any connection structure for removably mounting the laser assembly to the compartment 51. Even if the flat outer surface of the compartment 51 is considered connection structure, there is no portion of the flat outer surface that is movable, let alone pivotably movable as is recited in each of claims 59 and 64. Thus, neither claim 59 nor claim 64 can be anticipated by Plumb. Accordingly, the applicants respectfully request withdrawal of the rejection of claims 59 and 64.

### **35 U.S.C. § 103 Rejections**

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." None of the cited references, or any combination thereof, teaches or suggests a portion of a connection structure that is pivotably movable. Because the cited references do not teach or suggest this features, *prima facie* obviousness cannot be established.

The applicants respectfully traverse the rejection of claims 10-12, 15-17, 19, 31, 37-40, 42-48, 49-52, 53, 55, and 57-63 as obvious over one or more of Von Wedemayer, Schwandt, and Webb in view of one or more of U.S. Patent No. 6,502,319 to Goodrich et al ("Goodrich"), U.S. Patent No. 5,516,581 to Kreckel et al. ("Kreckel"), Schwandt, U.S. Patent No. 4,208,802 to Berndt ("Berndt"), U.S. Patent No. 5,832,867 to Whicker, Jr. ("Whicker"), U.S. Patent No. 6,012,229 to Shaio ("Shaio"), U.S. Patent No. 6,499,707 to Hamerski et al. ("Hamerski") and U.S. Patent No. 4,663,856 to Hall et al. ("Hall").

As discussed above, Von Wedemayer, Schwandt, and Webb do not disclose or suggest a portion of a connection structure that is pivotably movable. Likewise, Goodrich, Kreckel, Berndt, Whicker, Shaio, Hamerski and Hall do not disclose or suggest a portion of a connection structure that is pivotably movable.

The applicants respectfully traverse the rejection of claims 15-17 as obvious over Von Wedemayer in view of Goodrich. As discussed above, Von Wedemayer fails to disclose or suggest a portion of a connection structure that is pivotably movable. While Goodrich discloses a laser diode 2 for producing a line of light on a surface, the laser diode 2 is not in any way removably mounted to a base. Thus, there is no need for a connection structure of any sort. Even if the flat base is considered connection structure, there is no movable portion on the flat base, let alone a pivotably movable portion. Because, Goodrich fails to disclose a portion of a connection structure that is pivotably movable, as is recited in each of claims 15-17, the applicants respectfully request withdrawal of the rejection of claims 15-17 as obvious over Von Wedemayer in view of Goodrich.

The applicants respectfully traverse the rejection of claims 10-12 as obvious over Schwandt in view of Kreckel. As discussed above, Schwandt fails to disclose or suggest a portion of a connection structure that is pivotably movable. While Kreckel discloses a removable adhesive tape, Kreckel does not disclose or suggest a light generating device or a leveling device of any sort, let alone a light generating device or a leveling device removably mounted to a connection structure having a pivotably movable portion, as is recited in each of claims 10-12. Therefore, none of claims 10-12 can be rendered obvious by any combination of Schwandt and Kreckel. The applicants respectfully request withdrawal of the rejection of claims 10-12.

The applicants respectfully traverse the rejection of claim 19 as obvious over Webb in view of Schwandt. As discussed above, neither Webb nor Schwandt discloses or suggests a portion of a connection structure that is pivotably movable. Thus, claim 19 can not be rendered obvious by any combination of Webb and Schwandt. The applicants respectfully request withdrawal of the rejection of claim 19.

The applicants respectfully traverse the rejection of claims 31, and 37-40 as obvious over Schwandt in view of Berndt. As discussed above, Schwandt fails to disclose or suggest a portion of a connection structure that is pivotably movable. While Berndt discloses a

leveling device having a removable liquid level, Berndt fails to disclose a portion of a connection structure that is pivotably movable. The level tube 12 is held in place by inwardly protruding dimples 22a disposed on the end walls 22 (col. 2, lines 56-59). While the level tube may be removable, the dimples are fixed and not movable in any way, let alone pivotably movable. Because the dimples of the Berndt device are not pivotably movable, none of claims 31, and 37-40 can be rendered obvious by any combination of Schwandt and Berndt. Accordingly, the applicants respectfully request withdrawal of the rejection of claims 31, and 37-40.

The applicants respectfully traverse the rejection of claims 48, 49, 53, 55, 57-60, and 62 as obvious over Von Wedemayer in view of Whicker. As discussed above, Von Wedemayer fails to disclose or suggest a portion of a connection structure that is pivotably movable. While Whicker discloses a ground position indicator having a web and one or more illuminating devices attached thereto, Whicker does not disclose a portion of a connection structure that is pivotably movable. In fact, the only connection structure disclosed by Whicker is fabric web loops 68 that hold illuminating devices in place. These web loops 68 are fixedly attached to the inside surface of compartment 32 (col. 6, lines 9-14). Thus, the web loops 68 are not movable, let alone pivotably movable. Because neither Von Wedemayer nor Whicker discloses or suggests a portion of a connection structure that is pivotably movable, as is recited in each of claims 48, 49, 53, 57-60, and 62, none of claims 48, 49, 53, 57-60, and 62 can be rendered obvious by any combination of Von Wedemayer and Whicker. Accordingly, the applicants respectfully request withdrawal of the rejection of claims 48, 49, 53, 57-60, and 62.

The applicants respectfully traverse the rejection of claims 50-52 as obvious over Von Wedemaer in view of Whicker and further in view of Goodrich. As discussed above, none of Von Wedemayer, Whicker and Goodrich discloses or suggests a portion of a connection structure that is pivotably movable. Thus, none of claim 50-52 can be rendered obvious by any combination of Von Wedemayer, Whicher and Goodrich. The applicants respectfully request withdrawal of the rejection of claims 50-52.

The applicants respectfully traverse the rejection of claims 42-44 as obvious over Webb in view of Shiao and in view of Hamerski. As discussed above, Webb does not disclose or suggest a portion of a connection structure that is pivotably movable. While

Shiao discloses a leveling device with a laser pointer and the laser pointer is removable, Shiao fails to disclose or suggest a portion of a connection structure that is pivotably movable. The laser pointer is held in place by split hollow wall 122 (col. 3, lines 40-45). The split hollow wall 122 forms three resilient clamp members 123 that flex and clamp the body of the laser pointer in place. The clamp members 123 are not pivotably movable, as is recited by each of claims 42-44.

Likewise, Hammerski fails to disclose a portion of a connection structure that is pivotably movable. Hamerski discloses an article support using adhesives. Hamerski fails to disclose a leveling device or a light generating device. Thus, Hamerski also fails to disclose a connection structure of any sort for removably mounting a leveling device or a light generating device. Further, no portion of a connection structure is pivotably movable. Because none of Webb, Shiao or Hammerski disclose or suggest a portion of a connection structure that is pivotably movable, as is recited in each of claims 42-44, none of claims 42-44 can be rendered obvious by any combination thereof. Accordingly, the applicants respectfully request withdrawal of the rejection of claims 42-44.

The applicants respectfully traverse the rejection of claims 45-47 as obvious over Schwandt in view of Berndt and Hamerski. As discussed above, none of Schwandt, Berndt and Hamerski discloses or suggests a portion of a connection structure that is pivotably movable. Thus, none of claims 45-47 can be rendered obvious over any combination of Schwandt, Berndt and Hamerski. The applicants respectfully request withdrawal of the rejection of claims 45-47.

The applicants respectfully traverse the rejection of claims 59, 61, and 63 as obvious over Schwandt in view of Hall. As discussed above, Schwandt does not disclose a portion of a connection structure that is pivotably movable. Likewise, Hall does not disclose a portion of a connection structure that is pivotably movable. While Hall discloses a leveling/plumbing device, the leveling/plumbing device does not include a connection structure to removably receive and mount either a light generating device or a leveling device. In fact, the spirit levels 78, 82 are glued in place on the body 62 (col. 4, lines 39-43 and FIGS. 8-10) and are not removable. Further, even if the body 16 were considered to be a connection structure where it meets the levels 78, 82, there is no movable portion on the body 16 at those locations, let alone a pivotably movable portion. Because Hall fails to disclose or suggest a

portion of a connection structure that is pivotably movable, as is recited by each of claims 59, 61, and 63, none of claims 59, 61, and 63 can be anticipated by Hall. Applicants respectfully request withdrawal of the rejection of claims 59, 61, and 63 as anticipated by Hall.

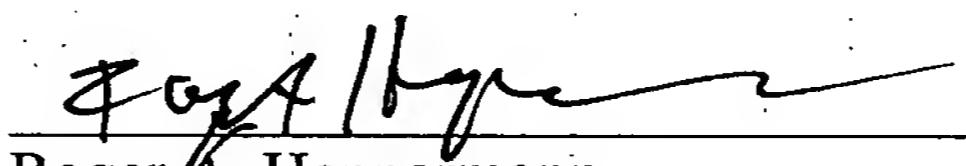
**Conclusion**

The applicants respectfully request entry of the foregoing amendments. For the foregoing reasons, the applicants respectfully request reconsideration and allowance of claims 1-64.

If there are matters that can be discussed by telephone to further the prosecution of this application, the applicants respectfully request that the Examiner call its attorney at the number listed below. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith.

Respectfully submitted,

By:

  
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